

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

DANIEL LOVELACE and
HELEN LOVELACE, Individually, and as
Parents of BRETT LOVELACE, deceased,

Plaintiffs,

vs.

NO.: 2:13-cv-02289 dkv
JURY TRIAL DEMANDED

PEDIATRIC ANESTHESIOLOGISTS, P.A.;
BABU RAO PAIDIPALLI; and,
MARK P. CLEMONS,

Defendants.

**PLAINTIFFS' MOTION TO STRIKE
DEFENDANT, MARK P. CLEMONS, M.D.'S REPLY TO PLAINTIFFS'
RESPONSE TO DEFENDANT, MARK P. CLEMONS, M.D.'S MOTION FOR LEAVE
TO FILE RESPONSE TO PLAINTIFFS' MOTION FOR PARTIAL SUMMARY
JUDGMENT AND FOR EXTENSION OF TIME, AND BRIEF**

Come the Plaintiffs, Daniel Lovelace and wife, Helen Lovelace, Individually, and as
Parents of Brett Lovelace, deceased, by and through their attorney, Mark Ledbetter, and for their
Motion to Strike Defendant, Mark P. Clemons, M.D.'s Reply to Plaintiffs' Response to
Defendant, Mark P. Clemons, M.D.'s Motion for Leave to File Response to Plaintiffs' Motion
for Partial Summary Judgment and for Extension of Time, and Brief, state as follows:

1. Under L.R. 7.2 [Motions] (c), the following is stated:

(c) Reply Memoranda.

Except as provided by L.R. 12.1(c) and L.R. 56.1(c), Reply Memoranda may be
filed only upon court order granting a motion for leave to reply. Such
motion for leave must be filed within seven (7) days of service of the Response.

2. Defendant Clemons' Reply to Plaintiffs' Response to Defendant, Mark P.

Clemons, M.D.'s Motion for Leave to File Response to Plaintiffs' Motion for Partial Summary Judgment and for Extension of Time [D.E. 141] violates L.R. 7.2(c), as no Reply is permitted under the circumstances present here, nor was leave to file a Reply timely obtained under L.R. 7.2, as required. Thus, for noncompliance with L.R. 7.2(c), the Reply should be stricken. However, if permitted, the following addresses it, viz., ¶ 3, infra.

3. Exhibit B of Defendant Clemons' Reply [D.E. 141] is a document in regard to which this Court has already held that Defendant Clemons may not rely in its defense. [D.E. 118 – Order Granting Plaintiffs' Motion to Strike the Certificate of Good Faith of Defendant, Mark P. Clemons, M.D., under T.C.A. ¶ 29-26-122, (b) and (c) and Brief].

Accordingly, the Reply should be stricken.

Respectfully submitted,

HALLIBURTON & LEDBETTER

/s/ Mark Ledbetter

Mark Ledbetter (#17637)

Attorney for Plaintiffs

254 Court Avenue - Suite 305

Memphis, TN 38103

(901) 523-8153-phone

(901) 523-8115-fax

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been properly served upon all counsel of record identified below via the Court's ECF filing system

J. Kimbrough Johnson/Marcy Dodds Magee/Margaret Cooper
2900 One Commerce Square
40 S. Main Street
Memphis, TN 38103
Attorneys for Mark Clemons
901/525-8721-phone
901/525-6722-fax
jjohnson@lewisthomason.com
mmagee@lewisthomason.com
mcooper@lewisthomason.com

Brad Gilmer/Jerry Potter/Karen Poplon/David Cook
The Hardison Law Firm
119 S. Main Street, Suite 800
Memphis, TN 38103
Attorneys for Babu R. Paidipalli & Pediatric Anesthesiologists, P.A.
901/525-8776 – phone
901/525-8790 – fax
Bgilmer@hard-law.com
jpotter@hard-law.com
kkoplon@hard-law.com
dcook@hard-law.com

This 29th day of September, 2014.

/s/ Mark Ledbetter
Mark Ledbetter, Certifying Attorney